

351.335 Rules and regulations -- Authority of commissioner or his representative.

- (1) The department shall have the authority for promulgating regulations concerning the manufacture, transportation, sale, storage, or use of explosives and unassembled components of explosives including, but not limited to, airblasts, preblast surveys, and blasting schedules, and the maintenance of such explosives which has a direct bearing on safety to life and property, and any other rules and regulations necessary to effectuate the provisions of KRS 351.315 to 351.375 or which are consistent with the provisions of the Federal Surface Mining Control and Reclamation Act of 1977, and amendments thereto, pertaining to blasting or explosives, or any rule or regulation promulgated thereunder pertaining to blasting or explosives. No portion of KRS 351.315 to 351.375 shall apply in any manner to the manufacture, transportation, sale, storage, possession, or use of:
 - (a) Loaded ammunition for use in small arms or other weapons; or
 - (b) Propellant powders for use in small arms or other weapons; or
 - (c) Primers for small arms ammunition; or
 - (d) Any other component part of small arms ammunition; or
 - (e) Tools, equipment, or devices for the manufacture of small arms ammunition; or
 - (f) Grades of blackpowder suitable primarily for use in firearms.
- (2) To promote compatible, uniform, and consistent laws and regulations concerning blasting, all local ordinances, rules, and regulations concerning blasting and explosives promulgated by units of local government within the Commonwealth shall be reviewed and approved, by the department, prior to implementation. Any not so approved shall be invalid. Any local ordinance, rule, or regulation in force on June 19, 1976, shall become invalid, null, and void one hundred twenty (120) days after June 19, 1976, unless it is submitted to the department and is approved as being consistent with the provisions of this section.
- (3) In order to carry out the purposes of KRS 351.315 to 351.375, the commissioner or his authorized representative shall have the authority:
 - (a) To enter without delay and advance notice any place where explosives are in use or stored or where blasting records are kept, during regular working hours and at other reasonable times in order to inspect such places, question any explosive user or seller for the purpose of ascertaining compliance or noncompliance with KRS 351.315 to 351.375.
 - (b) To administer oaths, take depositions, conduct hearings, take photographs, review any and all blasting records, and secure any other evidence deemed necessary to evaluate any safety hazard in KRS 351.315 to 351.375 or regulations issued pursuant thereto.
- (4) If an explosive user or seller refuses such entry, then the commissioner or his authorized representative may apply to the Franklin Circuit Court, or to the Circuit Court within the county wherein the premises to be entered are located, for an order to enforce the right of entry.

- (5) If, during the course of a lawful inspection, the commissioner or his authorized representative discovers explosives stored or kept in an unlawful manner and such unlawfully stored or kept explosives constitute an imminent and substantial danger to life or property, then the commissioner or his authorized representative may, upon proper affidavit before a magistrate with authority and jurisdiction to issue search warrants, obtain a warrant authorizing seizure of such unlawfully stored or kept explosives and thereby seize and store such explosives in a lawful and safe manner.
- (a) No warrant pursuant to this section shall be issued unless the commissioner or his authorized representative has made arrangements with public or private sources for the lawful and safe storage of the explosives to be seized.
 - (b) No warrant pursuant to this section shall be issued upon an affidavit that does not aver that an arrangement has been made between the commissioner or his authorized representative and public or private sources for the lawful and safe storage of the explosives to be seized.
 - (c) No warrant pursuant to this section shall be issued upon an affidavit that does not specifically state the place in which the explosives are to be stored in terms of city, county, street address, and name of person, company, or agency accepting the explosives for storage.
 - (d) Any owner or person entitled to lawful possession of explosives seized pursuant to this section shall be entitled to recovery of the seized explosives upon written or verbal notification to the commissioner or his authorized representative stating his capability to lawfully and safely store the seized explosives, and upon an inspection by the commissioner or his representative of his storage facilities and methods that reveals his capability to lawfully and safely store the explosives.
 - (e) The commissioner or his authorized representative shall make the inspection within five (5) days of receipt of said notification.
 - (f) If the commissioner or his authorized representative receive no communication from the owner or person entitled to lawful possession of the seized explosives within thirty (30) days after the seizure of such explosives, then the commissioner or his authorized representative may dispose of the seized explosives in a safe and lawful manner.

Effective: June 17, 1978.

History: Amended 1978 Ky. Acts ch. 337, sec. 2, effective June 17, 1978. -- Created 1976 Ky. Acts ch. 143, sec. 5.